

Draft Definition of Prior Lawful Approval for Priority Development Projects
Revised May 14, 2015

Insert the following as Provision E.3.e.(1)(b) and renumber the following provisions appropriately:

- ~~(b) For private development projects, prior lawful approval under this Order is a development approval or construction permit that either: 1) complies with the Priority Development Project requirements of the Fourth Term MS4 permits¹ and includes the design of the storm water drainage system for the project in its entirety as accepted by the Copermittee, or 2) confers a vested right to proceed under prior storm water requirements. For public projects, approval means that the design of the storm water drainage system for the project in its entirety has been stamped by the City or County Engineer. For any applicable portion(s) of the project, approvals may be extended to any subsequent discretionary or ministerial approvals necessary to implement the initial project approval with the following conditions:~~
- ~~(i) All subsequent permits must be issued within 5 years of the effective date of the BMP Design Manual pursuant to Provision E.3.d; and~~
- ~~(ii) BMP installation under subsequent approvals must remain in substantial conformity with the design of the storm water drainage system included in the initial approval.~~

Revise Provision E.3.e.(1)(a) as follows:

e. PRIORITY DEVELOPMENT PROJECT BMP IMPLEMENTATION AND OVERSIGHT

Each Copermittee must implement a program that requires and confirms structural BMPs on all Priority Development Projects are designed, constructed, and maintained to remove pollutants in storm water to the MEP.

(1) Structural BMP Approval and Verification Process

- (a) Each Copermittee must require and confirm that ~~for~~ all Priority Development Projects ~~applications that have not received prior lawful approval by the Copermittee by the effective date of the BMP Design Manual pursuant to Provision E.3.d, implement~~ the requirements of Provision E.3 ~~must be implemented. For project applications that have received prior lawful approval before the effective date of the BMP Design Manual pursuant to Provision E.3.d, except that~~ the Copermittee may allow previous land development requirements to apply to a Priority Development Project if all of the following conditions are met:-

¹ Order Nos. R9-2007-0001, R9-2009-0002, and R9-2010-0016 for San Diego, Orange, and Riverside Counties, respectively.

- (i) The Copermittee has, prior to the effective date of the BMP Design Manual required to be developed pursuant to Provision E.3.d, approved a design that incorporates the storm water drainage system for the Priority Development Project in its entirety, including all applicable structural pollutant treatment control and hydromodification management BMPs; AND
- (ii) The Copermittee has, prior to the effective date of the BMP Design Manual required to be developed pursuant to Provision E.3.d, issued a building permit, or functional equivalent that authorizes the Priority Development Project applicant to commence construction activities, based on a design that incorporates the approved storm water drainage system for the Priority Development Project in its entirety; AND
- (iii) The Copermittee confirms that there have been construction activities on the Priority Development Project site within the 365 days prior to the effective date of the BMP Design Manual required to be developed pursuant to Provision E.3.d, OR the Copermittee confirms that construction activities will commence on the Priority Development Project site within the 180 days after the effective date of the BMP Design Manual required to be developed pursuant to Provision E.3.d, where construction activities are undertaken in reliance on the building permit, or functional equivalent, issued by the Copermittee in conformance with Provision E.3.e.(1)(a)(ii).